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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/991,762

11/21/2001

Margaret Sue Ellis

1698/US

5316

20686

7590

03/16/2009

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EXAMINER

TINKLER, MURIEL S

ART UNIT

PAPER NUMBER

3691

MAIL DATE

DELIVERY MODE

03/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/991,762	ELLIS, MARGARET SUE	
	Examiner	Art Unit	
	MURIEL TINKLER	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 16-33, 41, 42 and 45-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-33, 41, 42 and 45-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/23/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This application has been reviewed. The status of the claims are as follows: claims 1-14, 16-38, 41-43 and 45-47 were previously pending; claims 1 and 14 have been amended; claims 34-38 and 43 have been cancelled; therefore, claims 1-14, 16-33, 41, 42 and 45-47 are currently pending and have been reviewed. The rejection(s) are as follows.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 23, 2009 has been entered.

Response to Arguments

2. Applicant's arguments, see page 9, filed February 23, 2009, with respect to the rejection(s) of claim(s) 1-12 and 45-47 under 35 USC 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of 35 USC 103. The Applicant has amended the claims to overcome the 35 USC 102 rejection, however

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upon further review, a rejection has been made in view of Heffner and McCauley under 35 USC 103.

3. Applicant's arguments filed February 23, 2009, regarding a liquidation time value decision tree have been fully considered but they are not persuasive. The Examiner disagrees. McCauley discloses the act of applying a liquidation time value decision tree in figures 1-6 and the Abstract. The Examiner uses the 'liquidation time value decision tree' as defined in the specification on page 8 (lines 20-30).

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-14, 16-33, 41, 42 and 45-47 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention is not patent eligible subject matter because why the claimed invention is directed to a judicial exception to 35 U.S.C. 101 (i.e., an abstract idea, natural phenomenon, or law of nature) and is not directed to a practical application of such judicial exception (e.g., because the claim does not require any physical transformation and the invention as claimed does not produce a useful, concrete, and tangible result). In this case, independent claims 1 and 14 each provide a method for analyzing without any associated hardware (i.e. software). Dependent claims 2-13, 16-33, 41, 42 and 45-47 do not cure this deficiency and are therefore also rejected.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-14, 16-20, 22-33, 42 and 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heffner et al. (US 2003/0018558) in view of McCauley et al. (US 5,930,775), hereafter referred to as Heffner and McCauley respectively.

8. Regarding claims 1-13, 30 and 41, Heffner discloses:

- a. A loan pool in the Abstract
- b. A database storing an electronic record in the Abstract
- c. Receiving and applying a selection of at least one risk filter in paragraph 86
- d. Displaying each of at least one loan and having a characteristic of the applied risk filter in paragraph 227
- e. Pre-selected rules in paragraph 219
- f. Mortgage loans in paragraph 6
- g. Providing a loss mitigation action for securitized loan pool based on an assessment of each of the at least one loans having the characteristic of the at least one applied risk filter as, "create credit slots with a list of criteria for each of

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said credit slots. The invention compares the loans in the loan pools to the credit slot criteria and places each loan in the loan pool in its slot. Based on the credit slotting and a pricing model received from the second subscriber, the invention can automatically price the pool and automatically submit a bid on the pool to the first subscriber. The invention can also calculate a price for a pool based on a yield calculation which is determined by the percent yield that the subscriber wishes to recover.” The risk filters are the credit slots. The loans in the loan pools are assessed and placed in their appropriate slots (applying the risk filter).

9. Heffner does not disclose a loss mitigation action to make delinquency payments or the option to refinance. However, McCauley discloses: the operation of determining a fifth time factor to account for a delinquency status associated with the loan includes: determining whether the loan has a delinquency status of current, 30 days delinquent, 60 days delinquent, or 90 days delinquent; setting the fifth time factor to two months if the delinquency status is 30 days delinquent; setting the fifth time factor to one month if the delinquency status is 60 days delinquent; setting the fifth time factor to zero months if the delinquency status is 90 days delinquent; and setting the fifth time factor to three months if the delinquency status is current date (see column 7, lines 52-67; Fig. 6; column 2, lines 19-26; abstract). McCauley also discloses refinancing (to modify conditions of a loan, i.e. to reduce interest rates) in column 2 (lines 19-26). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Heffner to include the loss mitigation factors including making delinquent payments and refinancing because these options provide a way to

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help to maximize the rate of return and minimize loss potential with these loans (see McCauley, column 1 (lines 40-43) and provides lenders with information on options for nonperforming loans, column 2 (lines 50-57).

10. Regarding claims 14 and 42, Heffner discloses the information in claim 1. See the rejection of claim 1 above. Heffner does not disclose obtaining an estimated liquidation time. McCauley teaches: obtaining an estimated net proceeds amount from a sale of the property associated with the loan (Fig. 6; column 5, lines 31-33; column 6, lines 65-column 7, lines 8; column 8, lines 48-50); obtaining an estimated liquidation time between a last interest paid date for the loan and a receipt of the net proceeds from the sale of the property (column 2, lines 19-26; column 3, lines 1-31; column 5, lines 1-33; column 7, lines 1-8; Fig. 6; abstract). McCauley also discloses applying a liquidation time value decision tree in figures 1-6 and the Abstract. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Heffner to include estimating liquidation time because it would provide the parties with an estimated time line for the loan.

11. Regarding claim 16, Heffner discloses: a time line for loan life in paragraph 18; and, a payment plan in paragraph 30.

12. Regarding claim 17, Heffner discloses filtering according to pre-selected rules in paragraph 86.

13. Regarding claim 18, McCauley discloses Regarding claim 19, McCauley discloses: obtaining a first time factor to account for a payment plan includes: determining an end date for the payment plan; determining a current date; subtracting

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the current date from the end date for the payment plan; and wherein the operation Of subtracting generates the first time factor to account for a payment plan (column 1, lines 25-30; column 2, lines 19-26; column 11, lines 1-7; Fig. 6; abstract; column 8, lines 22-60).

14. Regarding claims 19 and 20, McCauley discloses: obtaining a second time factor to account for a bankruptcy proceeding associated with the loan and adding the second time factor to the last interest paid date (column 2, lines 19-26; column 3, lines 1-31; column 5, lines 1-33; column 7, lines 1-8; Fig. 6; abstract).

15. Regarding claims 22 and 23, McCauley discloses: the operation of applying a liquidation time value decision tree includes: obtaining a third time factor to account for litigation associated with the loan and adding the third time factor to the last interest paid date (column 2, lines 19-26; column 8, lines 39-47; column 3, lines 1-31; column 5, lines 1-33; column 7, lines 1-8; Fig. 6).

16. Regarding claim 24, McCauley discloses: the operation of obtaining a third time factor to account for litigation associated with the loan includes: determining if there is litigation associated with the loan and setting the third time factor to twelve months if there is litigation associated with the loan (column 2, lines 19-26; column 5, lines 1-33; column 7-8; Fig. 6; abstract).

17. Regarding claims 25 and 26, McCauley discloses: the operation of applying a liquidation time value decision tree includes: obtaining a fourth time factor to account for foreclosure proceedings associated with the loan and adding the fourth time factor to the last interest paid date (column 2, lines 19-26; columns 3-8; Fig. 1-6).

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18. Regarding claim 27, McCauley discloses: the operation of obtaining a fourth time factor to account for foreclosure proceedings associated with the loan includes: determining a foreclosure start date; determining a current date; subtracting the foreclosure start date from the current date; and wherein the operation of subtracting yields the fourth time factor (columns 3-8; Fig. 1-6).

19. Regarding claim 28 and 29, McCauley discloses: the operation of applying a liquidation time value decision tree includes: obtaining a fifth time factor to account for a delinquency status associated with the loan; adding the fifth time factor to the last interest paid date (see column 7, lines 52-67; Fig. 6; column 2, lines 19-26; abstract).

20. Regarding claims 31 and 32, McCauley discloses: obtaining a sixth time factor to account for a marketing period to sell the property and adding the sixth time factor to the last interest paid date (column 1, lines 25-30; column 2, lines 1-26; column 10, line 33-column 11, line 5).

21. Regarding claim 33, McCauley discloses: the operation of obtaining a sixth time factor to account for a marketing period to sell the property includes: determining if an eviction is required; adding two months to the sixth time factor if the eviction is required; determining if the property is a co-op; adding three months to the sixth time factor if the property is a co-op; determining if the property is located in a depressed region; adding twelve months to the sixth time factor if the property is in a depressed region; determining if the property is in bad condition; adding six months to the sixth time factor if the property is in bad condition; determining if the property has a value that exceeds a

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specified value; and adding two months to the sixth time factor if the property value exceeds the specified value (Fig. 1-6; abstract; column 5-8).

22. Regarding claims 45-47, Heffner discloses the use of a watch list provided by a third party on page 6 in Table 1, 'Servicing Company' "on behalf of the owner of the loan, monitor and collect monthly payments from the Borrower, and may institute proceedings against borrower who are delinquent or in default (phases 120-124)." See also paragraph 105, "While one servicing subsystem 250 is shown in FIG. 2B, it will be apparent to one skilled in the relevant art(s) that a plurality of loan servicing entities, each with their own loan servicing subsystem 240 infrastructure, may subscribe to the exchange system 200 and thus access the above-described components inside of the system. Loan servicing entities would provide exchange system 200 subscribers, via the router 253 and the Internet 260, with information about each loan such as prepayment, delinquency, default, etc."

23. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heffner and McCauley as applied to claim 20 above, and further in view of Sellers et al. (US 2001/0044773), hereafter referred to as Sellers.

24. Regarding claim 21, Heffner and McCauley disclose the information in claim 20. McCauley and Heffner do not disclose: determining whether a chapter thirteen bankruptcy proceeding, a chapter seven bankruptcy proceeding, a chapter twelve bankruptcy proceeding, or another chapter bankruptcy proceeding is associated with

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the loan; setting the second time factor to three months if the chapter thirteen bankruptcy proceeding is associated with the loan; setting the second time factor to six months if the chapter seven bankruptcy proceeding is associated with the loan setting the second time factor to twelve months if the chapter eleven bankruptcy proceeding is associated with the loan; and setting the second time factor to three months if another bankruptcy proceeding or an unidentified bankruptcy proceeding is associated with the loan. Sellers teaches the following steps: determining whether a chapter thirteen bankruptcy proceeding, a chapter seven bankruptcy proceeding, a chapter twelve bankruptcy proceeding, or another chapter bankruptcy proceeding is associated with the loan (Fig. 13N; ¶ 0077); setting the second time factor to six months if the chapter seven bankruptcy proceeding is associated with the loan (Fig. 13N; ¶ 0077-0078); Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time the invention was made to add determining whether a chapter thirteen bankruptcy proceeding, a chapter seven bankruptcy proceeding, a chapter twelve bankruptcy proceeding, or another chapter bankruptcy proceeding is associated with the loan and setting the second time factor to six months if the chapter seven bankruptcy proceeding is associated with the loan features to the method of McClauey and Heffner because Sellers et al. teaches that adding the features help to provides a system for automatically obtaining loan workout approval (¶ 0008). The steps of: setting the second time factor to different months relating to different chapter bankruptcy is the design choices. Please refer to above rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MURIEL TINKLER whose telephone number is (571)272-7976. The examiner can normally be reached on Monday through Friday from 6:30 AM until 3 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571)272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. T./
Examiner, Art Unit 3691

/Hani M. Kazimi/
Primary Examiner, Art Unit 3691

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